IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SIXTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

-

WRIT PETITION NO : 22844 of 1994

Between:

1 Laxinarayana Goel, s/o. late Haridwarimal Goel,
R/o. 19-1-874/4, Bahadurpura, Hyderabad-500 264.

2 Meenakshi Goel, W/o. Laxminarayana Goel,
R/o. 19-1-874/4, Bahadurpura, Hyderabad-500 264.

..... PETITIONERS

AND

1 The Land Acquisition Officer, Hyderabad Urban Development Authority, Taranaka , Hyderabad.

2 The Hyderabad Urban Development Authority, Hyderabad.

3 The District Collector, Ranga Reddy Dist, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, Order or Direction especially in the nature of Mandamus directing the first respondent to comply with the prayer of the petitioners in their letter dated 8th September,1994 to make a reference to the Civil Court in terms of Section 18 of the Land Acquisition Act.

Counsel for the Petitioner: MR.S.RAVI

Counsel for the Respondents 1 to 3 : G.P. for Land Acquisition.

The Court made the following :

O R D E R :

1. Heard Sri S.Ravi, learned counsel appearing for the petitioners and the Government Pleader for Land Acquisition.

2. The petitioners herein, who claim to be the owners of the land to an extent of Ac.16.07 guntas in survey nos.725/18A, 725/18AA and 725/18E situated at Shamsabad in Ranga Reddy district, filed this Writ Petition, *inter alia,* seeking a direction to first respondent to make a reference under Section 18 of the Land Acquisition Act (hereinafter referred to as 'the Act') in pursuance of their application dated 08.09.1994.

3. The brief facts, which are necessary to dispose of this Writ Petition, are that the aforesaid lands, along with other lands, were acquired by first respondent, in pursuance of the notification under Section 4(1) of the Act issued in A.P.Gazette on 06.12.1986, after following due procedure as contemplated under the Act. It is pointed out that out of total extent of Ac.526.19 guntas of land covered under the notification, only Ac.216.02 guntas of land was retained and the rest of the land, including the land of petitioners, was sought to be deleted by the respondents, by way of denotification. Therefore, the petitioners filed an application under Section 48(2) of the Act claiming compensation for the damages which they sustained during the said interregnum period. Since no action was being taken thereon, the petitioners had to approach this Court by way of W.P.No.11486 of 1992, which was disposed of on 09.09.1992, whereunder this court had given direction for consideration of the said application. As the same was not complied with by the respondents, the petitioners filed Contempt Case No.247 of 1994, which was disposed of, on 03.08.1994 with a direction to complete the process within a period of

one month. In pursuance of the directions, the respondents have ultimately passed orders on 24.08.1994, rejecting their claim for payment of damages on the ground that the petitioners were not disturbed from the said lands nor prevented from enjoying the lands.

It is submitted that, aggrieved thereby, the petitioners filed application on 08.09.1994 followed by reminder dated 05.10.1994, seeking reference to the Civil Court for the purpose of determination of quantum of damages suffered by them. Inspite of the same, no action has been taken nor any orders are passed thereon. Hence, the Writ Petition.

4. The learned Government Pleader appearing for the respondents submits that having regard to the fact that the land was not taken over nor acquired, the petitioners have not suffered any damages and so, they are not entitled for any amount, and their request has been rightly rejected and therefore, they are not entitled for seek any reference.

5. Considering the submissions made and on perusal of material, it is seen that there is no dispute with regard to the fact that petitioners' land was acquired along with large extent of lands of others, under the provisions of the Act and that subsequently, the said lands of petitioners and also some other lands were sought to be withdrawn from acquisition as they were not necessary. During this period, the petitioners claimed damages and therefore, approached the respondents herein for payment of the same. The said request has been rejected mainly on the ground that the petitioners had not suffered any damages, since no possession was taken over and that they remained in possession. Thereafter, the petitioners sought reference under Section 18 of the Act.

6. There is no dispute regarding the proposition of law that under

Section 48(2) of the Act, a party, who has suffered any damages, is entitled for compensation, which has to be determined by the Collector under sub-section(3) of Section 48 of the Act. It contemplates that entire provisions of part-III of the said Act shall apply so far as determination of compensation payable under the said Section. In view of the same, Section 18 of the Act, which is one of the provisions under part-III of the said Act, squarely steps in and a party, who is aggrieved by any Orders passed in regard to payment of damages or quantum thereof, can seek a reference under Section 18 of the Act. In view of the same, it has to be held that the impugned action on the part of the respondents in not acting upon the application filed by the petitioners is wholly illegal in the teeth of the provisions of the said Act.

7. Therefore, the Writ Petition is allowed directing the respondents to refer the matter to the competent Civil Court under Section 18 of the Act for the purpose of determination of the compensation in the form of damages. The entire exercise shall be done within a period of two months from the date of receipt of copy of this Order. No costs.

16.09.2004

DRK

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice, on the Thursday the sixteenth day of September Two thousand and four.

Assistant Registrar

Copy to:

1 The Land Acquisition Officer, Hyderabad Urban Development Authority, Taranaka , Hyderabad.

2 The Hyderabad Urban Development Authority, Hyderabad.
3 The District Collector, Ranga Reddy Dist, Hyderabad.

4 Two CCs to the G.P. for Land Acquisition, High Court buildings, High Court of A.P., Hyderabad (o.u.t.).

5 Two CD copies.